

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

SECOND APPEAL NO.1450 OF 2005

WITH

CIVIL APPLICATION NO.2055 OF 2005

Ashok Dagduram Chopda. ...Appellant.

Vs.

The Sangli Bank Ltd. & Ors. ...Respondents.

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Mr.A.L.Gore for the Appellant.

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CORAM : DR.D.Y.CHANDRACHUD, J.

December 22, 2005.

P.C. :

The Appellant is a guarantor. The guarantee was given to the Respondents who had granted a loan facility to the principal borrower. Both the Courts have concurrently come to the conclusion that an amount of Rs.86,825/- as claimed is due and payable. The contention of Counsel appearing on behalf of the Appellant is that the guarantee was not necessary. The Appellant admittedly has furnished the guarantee and cannot

be heard to take such a defence at this stage. It is stated that there is an F.D.R. of the Appellant which is lying with the Bank and the Appellant has no objection if it is encashed towards the satisfaction of the decretal dues. It would be undoubtedly open to the Appellant to bring it to the notice of the Bank and/or the executing Court. In so far as the Second Appeal is concerned, it is totally devoid of merit and no substantial question of law is raised. The Second Appeal is dismissed.

In view of the disposal of the appeal, the Civil Application does not survive and is accordingly disposed of.

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